



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/680,016	10/07/2003	Terrence Treacy	28913.10	4712
24131	7590	05/17/2007	EXAMINER	
LERNER GREENBERG STEMER LLP			SPISICH, MARK	
P O BOX 2480			ART UNIT	PAPER NUMBER
HOLLYWOOD, FL 33022-2480			1744	
MAIL DATE		DELIVERY MODE		
05/17/2007		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)
	10/680,016	TREACY ET AL.
	Examiner	Art Unit
	Mark Spisich	1744

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 02 March 2007.
- 2a) This action is **FINAL**. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 34-66 is/are pending in the application.
 - 4a) Of the above claim(s) 34-39 is/are withdrawn from consideration.
- 5) Claim(s) 40-43 and 47-53 is/are allowed.
- 6) Claim(s) 44-46, 54, 55 and 58-66 is/are rejected.
- 7) Claim(s) 56 and 57 is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date: _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>10/2 and 10/10 (both 2006)</u> . | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| | 6) <input type="checkbox"/> Other: _____. |

DETAILED ACTION

Comment RE Claims 34-39

Although it is possible in some cases to consider the rejoicing of certain claims that were previously withdrawn as the result of a restriction requirement, applicant cannot simply leave the method claims as they were originally filed while amending the apparatus claims. The amending of the apparatus claims makes them even more distinguishable from the original method claims. If applicant really wanted the method claims to possibly be re-joined, then they should have been amended **exactly** in the same manner as the apparatus claim(s) in such a manner as to render them not patentably distinct from each other. As is stands, applicant is requesting examination of the apparatus claims and then to then go back and start from scratch and examine a non-elected group.

Comment RE Claim 56

It would seem that "end" should follow "proximal" (claim 56, line 3).

Drawings

1. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: #13 as per paragraph 0037, line 9. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of

Art Unit: 1744

an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance. **NOTE:** New formal drawings were filed on 15 December 2003 (which do not include #13 in Figure 6, as did the prior informal drawings filed 7 October 2003).

Claim Rejections - 35 USC § 112

2. Claims 44-46 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. "Plunger head" (claim 44, line 3) lacks antecedent. It would seem that claim 44 should instead depend from claim 41.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 54 is rejected under 35 U.S.C. 102(b) as being anticipated by DE 29914342. '342 discloses a cleaning tool (10) comprising a hollow handle (20) comprising a proximal (21) and distal section (22), actuation means in the form of a plunger mechanism (61,62) and a cleaning head (40) detachably coupled to the distal end of the handle.

Art Unit: 1744

5. Claims 54,55,58 and 59 are rejected under 35 U.S.C. 102(b) as being anticipated by DE 29709610. '610 discloses discloses, as best shown in the embodiments of figures 2a and 2b, a cleaning apparatus comprising a hollow body (6), actuation means (7) with a plunger (8) and a cleaning head (4) detachably coupled to the body. The body further includes a receptacle (5) with what appears to be ribs (fig 2b) for engaging the cleaning head. The broad recitation of different "sections" of the handle could very well simply be portions of the handle and not distinct elements which are interfitted end to end.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 54,55,58 and 59 are rejected under 35 U.S.C. 103(a) as being unpatentable over DE 29709610 in view of Polocicchio (USP 6,996,871). The patent to Polocicchio discloses a cleaning implement handle (32) which may be provided as a unitary structure or can comprise three section (132,232,332) which are threadably interconnected with each other. Even if one were to interpret the recited "sections" of '610 as being distinct elements, one of ordinary skill would deem it obvious to modify the handle of '610 as taught by Polocicchio so that it could be compactly stored.

8. Claim 60 is rejected under 35 U.S.C. 103(a) as being unpatentable over either DE 29709610 alone (as in paragraph #5 above) or DE 29709610 in view of Polocchcio

Art Unit: 1744

(USP 6,996,871) (as in paragraph #7 above), further in view of WO 96/37140. The prior art discloses the invention substantially as claimed with the exception of the O-ring. '140 discloses a similar ejectable cleaning tool which includes an O-ring (6). It would have been obvious to one of ordinary skill to have provided such a member to prevent liquid from entering the handle.

9. Claim 61 is rejected under 35 U.S.C. 103(a) as being unpatentable over either DE 29709610 alone (as in paragraph #5) or DE 29709610 in view of Polocchio (USP 6,996,871) (as in paragraph #7), further in view of Federico et al (USP 5,630,243). The prior art discloses the invention substantially as claimed with the exception of the guides. The provision of guides (6) for an axially moving rod (4) in a cleaning tool is taught by the patent to Federico. The provision of such to the prior art would be obvious to one of ordinary skill.

10. Claims 62-64 and 66 are rejected under 35 U.S.C. 103(a) as being unpatentable over either DE 29709610 alone (as in paragraph #5) or DE 29709610 in view of Polocchio (USP 6,996,871) (as in paragraph #7), further in view of Reach (USP 2,038,958). The prior art discloses the invention substantially as claimed with the exception of the spirally disposed bristles. The patent to Reach discloses a toilet cleaning swab comprising bristles (15'14') rolled so as to define a spiral (fig 5). The sheet (14) would read on the recited "retainer/sleeve". It would have been obvious to one of ordinary skill to have modified the cleaning head of '610 as the patent to Reach discloses an art-recognized equivalent flushable cleaning head also for cleaning a toilet.

Art Unit: 1744

11. Claim 65 is rejected under 35 U.S.C. 103(a) as being unpatentable over either DE 29709610 alone (as in paragraph #5) or DE 29709610 in view of Polocchio (USP 6,996,871) (as in paragraph #7), in view of Reach (USP 2,038,958), and further in view of Hardin (USP 2,719,999). The prior art discloses the invention substantially as claimed with the exception of the concave surface. The patent to Hardin discloses a toilet cleaning member including a concave surface (22) on a portion thereof. It would have been obvious to one of ordinary skill to have modified the head of '610 as such so that different surfaces could be cleaned or confirmed to.

Allowable Subject Matter

12. Claims 40-43 and 47-53 are allowed.

13. Claims 44-46 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action.

14. Claims 56 and 57 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

15. Applicant's arguments, at least those regarding claim 54, filed 2 March 2007 have been fully considered but they are not persuasive. Firstly, applicant cannot simply let a broad non-elected method claim remain unamended and have any hope of that claim being rejoined. Second, it would appear that applicant is referring to the wrong figure 6 (as replacement formal drawings filed 15 December 2003 do not include the reference #13, although the original informal drawings did). With regard to claim 54, the

Art Unit: 1744

alleged distinction therein is the recitation of the "sections". As claimed, it is felt that the broad recitation of "sections" could simply be regions or portions of the handle. Even if that is not the case, the provision of either a unitary handle or a handle with plural sections is taught by the prior art.

Conclusion

16. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The patent to Nichols is further pertinent to a cleaning tool handle provided as several distinct parts.

17. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Art Unit: 1744

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mark Spisich whose telephone number is (571) 272-1278. The examiner can normally be reached on M-Th (5:30-3:00), Alternate Fri off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gladys Corcoran can be reached on (571) 272-1214. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Mark Spisich
Primary Examiner
Art Unit 1744

MS